

# Land Use Ordinance Changes

## DIVISION 2. DEFINITIONS OF TERMS USED IN ARTICLE

### Section 62-51. Definitions.

1. *Greenspace development:* A development of a tract of land whereby the minimum lot is reduced as follows. Whereby the lots will be smaller than the prescribed minimum for each zone district, the remaining property not included within lots shall be used for common area, greenspace, conservation easements, or other nonresidential uses that are permitted for residential zone districts, such as golf courses, parks, equestrian areas, gathering places, etc. All such property not included within lots must be dedicated as road rights-of-way or common area and shall be prohibited from any future development. ~~The minimum lot sizes and widths within greenspace developments shall be established by the Gilmer County Health Department if served by individual septic systems. If the lots are to be served by public sewerage or community private wastewater treatment and disposal systems, the minimum lot size shall be 0.4 acre and the minimum width at the front building line shall be 90 feet. Any subdivision plan of a greenspace development shall state the total gross area of the project and the number of proposed lots. If developed in phases, a project total shall be given as well as that of the submitted phase. The minimum amount of land to be dedicated as greenspace in order to qualify as a greenspace development is eight percent of the total gross project area. Said eight percent shall not include any road rights-of-way.~~
2. **Residential Mixed Use Development.** This activity is intended to provide for the development of large tracts of land as planned communities, creating a mix of a single family residential, multi-family residential. Density will be based on current zoning regulations while keeping the natural environment and compatibility with surrounding land uses.
3. **Agriculture Machine Shop:** A workshop where machines and tools are used for making, finishing, or repairing machines, machine parts, or equipment. For the purpose of this ordinance, no more than 5 employees shall be allowable in the A-1 District.
4. **Subdivision:** A subdivision is defined as the division of a single parcel of land into two or more parcels. All subdivisions of land in Gilmer County shall comply with the applicable provisions of this chapter. The subdivision approval process and submission requirements vary with the magnitude of the subdivision. All minor subdivision plats shall comply with the requirements for minor subdivisions. All major subdivisions plats shall comply with the requirements for major subdivisions. A plat depicting a single new lot shall be exempt from the requirements for minor or major subdivisions. However, this exemption shall apply only to divisions occurring no more than ~~one~~ two per 12-month period on any privately maintained roads. Any subsequent division creating more than ~~one~~

**two** new parcels within said twelve month period shall be considered a subdivision and must comply with either the minor or major subdivision requirements, whichever applies. Variances ~~is may be~~ granted where division of property is due to inheritance or ~~additional residences for immediate family court orders~~. Any plat of such division shall plainly describe the name of the estate and/or court case number. Further exempted shall be any divisions wherein the new tracts directly front and access county or state roads, provided that all such divisions shall fully comply with the size requirements by zoning district and as may be required by Gilmer County Environmental Health Division. All plats that create any new lots must be approved by the Gilmer County Environmental Health Division prior to approval for recording by the Gilmer County Planning Commission. Plats that are exempt from the approval process under provisions in OCGA § 15-6-67 (d) shall not be subject to approval by the planning commission for recording. However, a plat recorded under the statutory exemption shall not be considered to be approved by Gilmer County.

5. *Subdivision, minor:* A minor subdivision is a division of a tract into three or up to seven tracts of land and meeting the following requirements: A redivision of lots within an existing subdivision that requires no new road construction or extension of water or sewer lines shall be considered a minor subdivision.

(1) All lots must ~~front be accessed by an existing county road or~~ existing privately maintained road or driveway. For a privately maintained road to qualify for minor subdivision consideration, either a bona fide property owner's association must be in place or must be created, or sufficient proof of a satisfactory road maintenance mechanism must be provided.

(Res. No. 05-97, Art. 2 § 201, 8-25-2005; Res. No. 06-48, §§ 1--4, 3-8-2006; Res. No. 06-182, § 1, 10-26-2006)

## **DIVISION 5. GENERAL PROVISIONS**

**Sec. 62-132. Table of land use districts and requirements therein.**  
TABLE INSET:

Classifications	Min. Size	Density	Side Setbacks	Front Setbacks	Rear Setbacks
A-1 (2)	3.0 (5)	N/A (5)	25	40/25 (4)	50
R-1 (2)	1.5 (3)	0.5/acre	20	40/25 (4)	40
R-2 (2)	1.0 (3)	1.0/acre	10	40/25 (4)	25 (1)
R-3	5.0	<del>2</del> 4.0/acre	50 (1)	40 (1)	50 (1)
C-1	N/A	N/A	15 (1)	40 (1)	15 (1)
I-1	N/A	N/A	15 (1)	40 (1)	15 (1)

(1) Greater set backs or buffers may apply according to adjacent zone classifications, check ordinance for specific land use classifications.

- (2) Notwithstanding anything herein to the contrary, the setbacks on residential lots previously platted and recorded in the public records of Gilmer County, Georgia, shall remain as set out in either the CCR's or on the recorded plat of the subdivision.
- (3) Minimum lot size is less for greenspace subdivisions--(See definitions).
- (4) Front setbacks are 40 foot from the right-of-way of any county, public, or state road and 25 foot from the right-of-way of any interior subdivision road.
- (5) Minimum lot size is greater for those parcels subject to the 10.0 acre minimum required under section 62-133. Density of 1 unit per 3.25 acres applies to greenspace developments within A-1 District. See 82-134 (b)
- (Res. No. 05-97, Art. 5 § 512, 8-25-2005; Res. No. 06-48, § 9, 3-8-2006; Res. No. 07-68, § a, 4-26-2007)

## **DIVISION 6. A1: AGRICULTURAL DISTRICT**

### **Section 62-163. Area, density and placement requirements.**

(c) *Density:* The density for the A-1 district is ~~one principal~~ up to three dwellings per single ~~lot parcel~~; ~~however, the board of commissioners may conditionally allow additional dwellings on a single lot~~ as long as it is in compliance with the Gilmer County Health Department and applicable provisions of this article. The density for an agriculture greenspace development shall be 1 unit per 3.25 acres. Any conditional approval for an additional dwelling must meet approval by the board of commissioners through the process and standards established by the land use procedures and standards ordinance. The maximum of three units is waived in the instance of residences for bona fide farm help where the farm help work specifically on the same parcel as the residence. Affidavits that demonstrate the farm help employment relationship shall be submitted with other permit applications for such residences.

(Res. No. 05-97, Art. 6 § 603, 8-25-2005; Res. No. 06-48, § 11, 3-8-2006; Res. No. 06-182, § 2, 10-26-2006; Res. No. 07-68, § c, 4-26-2007)

## **DIVISION 9. R-3: RESIDENTIAL MULTIFAMILY DISTRICT**

### **Sec. 62-193. Area, density, and placement requirements.**

(3) *Density:* The maximum dwelling unit density for R-3 district is ~~2.0~~ 4.0 per acre.

(Res. No. 05-97, Art. 9 § 903, 8-25-2005; Res. No. 06-48, § 21, 3-8-2006)

## **DIVISION 12. TABLE OF PERMITTED USES**

### **Section 62-221. Table of Permitted Uses**

A-1						
<u>Agriculture Machine shops</u>	<u>P</u>					
C-1						
Solid waste processing; but not incineration or sanitary landfilling				<u>P</u>		P

						I-1
<u>Landfills- Solid Municipal Waste</u>						<u>C</u>

Landfills, inert <u>or Construction &amp; Demolition Waste</u> - subject to state permits and approval by B.O.C						C					C
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						A-1	R-1	R-2			
Guest house (See Article Two, Definitions.)						<u>P</u>	<u>P</u> <u>C</u>	<u>P</u> <u>C</u>			

						A-1					
Dwelling, detached single-family-additional (see purpose and intent for each district.)						<u>C</u> <u>P</u>					

(Res. No. 05-97, Art. 12, 8-25-2005; Res. No. 06-48, § 25, 3-8-2006; Res. No. 06-182, § 6, 10-26-2006; Res. No. 08-52, 4-24-2008)

# **Land Development Ordinance**

## **ARTICLE I. IN GENERAL**

### **Sec. 82-1. Compliance with chapter.**

A). Unless exempted by law, all subdivisions of land or development of land in the county shall comply with the provisions of this chapter. Any plat that is recorded by exemption in [O.C.G.A. §] 15-6-67 is not considered to be a legal subdivision and will not be eligible for permits unless fully compliant with the requirements of this code.

B). All plats submitted for approval and recording shall include an agricultural acknowledgement as set forth in Section 62-130 and the parcel(s) number of the property being submitted, and a chart or statement of the property's proximity to mountain protection district, wetlands protection district, cartecay river watershed protection district, ellijay river watershed protection district, coosawattee watershed protection district and coosawattee river corridor.

(Ord. of 3-27-2003(5), ch. III, art. I; Res. No. 06-47, 3-8-2006)

### **Sec. 82-33. Subdivisions which must comply with plat approval process.**

All subdivisions of land shall comply with the platting approval process as outlined in this chapter and O.C.G.A. § 15-6-67 and Section 82-1.

(Ord. of 3-27-2003(5), § 3.102; Res. No. 06-47, 3-8-2006)

## **ARTICLE III. PRELIMINARY PLAT STANDARDS AND REVIEW PROCESS**

### **Sec. 82-62. Information required on preliminary plat or accompanying the preliminary plat.**

(7) The plat shall contain the proposed name of the development and street names and a statement as to whether the streets are proposed to be dedicated to Gilmer County or to be privately maintained. If streets are to be privately maintained, preliminary plat shall also include private road construction acknowledgement. If streets are to be dedicated to Gilmer County, developer must insure full compliance with section 82-186.

(14) Permits and variances, if any, (such as FEMA, DNR, DHR, etc.) Documentation indicating compliance with the National Pollutant Discharge Elimination System (NPDES permit) and U.S Army Corps of Engineers Regulations.

(Ord. of 3-27-2003(5), § 3.200; Res. No. 06-47, 3-8-2006; Res. No. 06-190, §§ c--f, 11-9-2006)

## **Sec. 82-64. Preliminary plat certificates.**

The following certificates shall be placed on the preliminary plat, or a cover sheet to the preliminary plat, and be signed by the appropriate authorities prior to submission of the preliminary plat to the planning commission for approval. The developer is responsible for obtaining the required signatures.

### Private Road Construction Acknowledgement

This is to certify that the roads or streets within this proposed development will be constructed according to standards set forth in Sections 82-177, 82-187, and 82-190. It will be the responsibility of the developer to provide photographs of each section of the road as it was constructed, especially topsoil removal, culvert placement, and building of fill slopes, along with detailed weekly construction reports (may use the same as required of the primary or secondary permittee under NPDES requirements). It is also acknowledged that the road construction contractor will be required to sign a Private Road Construction Certificate on the final plat which will further attest to the construction of the roads or streets.

\_\_\_\_\_  
Developer

\_\_\_\_\_  
Date

(Ord. of 3-27-2003(5), § 3.202; Res. No. 06-47, 3-8-2006)

## **ARTICLE IV. FINAL PLAT STANDARDS AND REVIEW PROCESS**

### **Sec. 82-92. Information required on final plat or accompanying final plat.**

The final plat shall conform to O.C.G.A. § 15-6-67 and the following

h. Names of streets and a designation as to whether they are to be dedicated to Gilmer County or to be privately maintained. If privately maintained, final plat must include an executed private road construction certificate.

(Ord. of 3-27-2003(5), § 3.300; Res. No. 06-47, 3-8-2006; Res. No. 06-190, § g, 11-9-2006)

### **Sec. 82-92.1. Minor subdivision plat requirements.**

(See the Gilmer County Land Use Ordinance for the Definition.)

h. Names of all streets and designations as to whether they are county maintained or privately maintained, also state surface width and type and right-of-way (or easement) width. ~~If streets are privately maintained, provide copies of and state the deed book and page of recorded supporting documentation; or p~~Provide adequate private road maintenance documentation to be recorded with the plat;

l. The following certificates from section 82-94

f. Section 82-194 and 82-195.

**Sec. 82-94. Final plat certificates.**

(a) The following applicable certificates shall be placed on the final plat, or a cover sheet to the final plat, and be signed by the appropriate authorities prior to submission of the final plat to the planning commission

Private Road Construction Certificate

The undersigned road construction contractor hereby certifies that the construction standards set forth in Gilmer County Code, Sections 82-177, 82-187, and 82-190 were complied with during the construction of the private roads or streets shown on this final plat.

Road Construction Contractor Company :

Address & Phone Number:

\_\_\_\_\_  
Authorized person signature                      printed name                      date

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE  
      DAY OF      , 20

\_\_\_\_\_  
Notary Public  
My Commission Expires:

\_\_\_\_\_  
(Ord. of 3-27-2003(5), § 3.302; Res. No. 06-47, 3-8-2006; Res. No. 06-190, § h, 11-9-2006)



## ARTICLE V. GENERAL PRINCIPLES OF DESIGN

### Section 82-134

#### Reserved. Greenspace Developments

*Greenspace developments:* The minimum lot sizes and widths within greenspace developments shall be established by the Gilmer County Health Department if served by individual septic systems. ~~If the lots are to be served by public sewerage or community private wastewater treatment and disposal systems, the minimum lot size shall be 0.4 acre and the minimum width at the front building line shall be 90 feet.~~ Any subdivision plan of a greenspace development shall state the total gross area of the project and the number of proposed lots. ~~If developed in phases, a project total shall be given as well as that of the submitted phase.~~ The minimum amount of land to be dedicated as greenspace in order to qualify as a greenspace development is eight percent of the total gross project area. Said eight percent shall not include any road rights-of-way.

- a. Minimum lot sizes in greenspace developments shall be determined by Environmental Health Office if served by septic systems. If served by sewer minimum lot size are 0.25 acres and 60 feet wide at the front building line.
- b. Greenspace developments are allowed in the A-1 District at the density of 1 unit per 3.25 acres, roads serving these developments shall be at a minimum of class D construction
- c. For all greenspace developments, a current and accurate master plan of the entire developed tract shall be kept on file with the Gilmer County Department of Planning and Zoning. Such master plan shall show all proposed roads, lots, amenities, and greenspace within the entire development. For future development areas, master planned lay-outs may be tentative. Any changes in the master plan that are reflected on submitted preliminary or final plats require the submittal of a revised master plan reflecting any such change. All master plans shall include a chart or table which clearly state the total gross area of the project, the required minimum greenspace for the entire project, the maximum permitted number of units, and a running total by phase of platted acres, platted units, and greenspace provided. The minimum eight percent greenspace applies to the total project as a whole and not to individual phases.
- d. Residential Mixed Use Development
  - i. Multi-Family Housing is allowed only in the R-1 (Residential Low Density District) and R-2 (Residential High Density District) only if the development is planned as a private gated community within the greenspace development ordinance. This development is developed by a single owner or company, or under a common master plan with recorded restrictive covenants providing for a Property Owners Association. The community shall include all improvements, common areas and amenities and shall be regulated by the covenants and restrictions of the Property Owners Association.



- ii. There shall be a 500-foot setback between multi-family construction and the exterior boundary of all Residential Mixed Use Developments. Said 500-foot buffer shall not include any residences.
- iii. The density shall be figured depending on the current zoning for the property but multi-family units shall not make up more than 50% of the allowable units. In no case shall the total number of units in a development exceed the maximum number allowed per the density specified within the zoning district.
- iv. The land use shall be primarily residential, with community-supported uses such as a small-scale cultural, recreational and civic uses. The common property of the development such as open space, recreational areas, roads and infrastructure and buildings shall be maintained by the Property Owners Association, by the developer, or by a legally created land trust.

**Editor's note:** Res. No. 06-47, adopted Mar. 8, 2006, deleted § 82-134, which pertained to lot area and derived from Ord. of Mar. 27, 2003(5), § 3.413.

## **ARTICLE VI. STREETS**

### **Sec. 82-177. Cut and fill slopes.**

Fill slopes should not exceed a slope of 1.5 horizontal to 1.0 vertical. Road fills shall be made on earth that has all topsoil or overburden removed. Fills shall be made in six-inch lifts starting on a level benched fills and compacted to a compaction rate of 95% standard proctor, that complies with state department of transportation standards or as dictated by the county road department. Cut slopes should not exceed a slope of one horizontal to one vertical. Cut slopes should be made to afford driveway construction wherever applicable. These slopes are recommended maximums and may be waived if topographic restraints are present, at the discretion of the county road department inspecting representative and if it is demonstrated that a steeper cut slope can be effectively stabilized. For class C, D, or E roads, retaining walls or other slope stabilization measures may be used to accommodate the heights of cut or fill slopes provided that such measures be approved by the public works director included in the approved construction plans or preliminary plat. Further, such measures shall be outside of any required shoulders adjacent to the road way, shall not obstruct sight distances, shall not impede drainage, and that guard railing shall be required adjacent to walls in fill slopes.

(Ord. of 3-27-2003(5), § 3.505; Res. No. 06-47, 3-8-2006; Res. No. 06-190, § j, 11-9-2006

**Sec. 82-186. Ownership of road right-of-way.**

(1) *Fee simple and dedicated to Gilmer County:* In order for a road to be dedicated to Gilmer County, the following items are required.

- (a) Satisfactory inspections per Section 82-202 (A). by the Gilmer County Road Department.
- (b) The preliminary plat must have declared that the roads were intended to be dedicated to Gilmer County.
- (c) Executed right-of-way deed from the developer, along with an attorney's certificate of title.
- (d) Acceptable maintenance security for a period of two years.
- (e) Completed construction of the road and all utilities installation, or acceptable performance security.
- (f) Majority vote of acceptance by the Gilmer County Board of Commissioners.
- (g) Executed certificate of road dedication on the final plat.

(2) *Fee simple and owned by a property owners association:* In order for a final plat to be approved having ownership of road rights-of-way to be held in fee simple, the following items are required:

- a. Satisfactory inspections per Section 82-202 (B). by the Gilmer County Road Department.
- b. Covenants and restrictions or other documentation must provide for road maintenance terms through the property owners' association.
- c. Private road maintenance review executed on the final plat.
- d. Property owners association certificate executed on the final plat.
- e. Private road maintenance acknowledgement executed on the final plat.
- f. If the new lots will be served by roads governed by an existing property owners association, documentation shall be provided that the property owners association accepts the new lots and or streets
- g. Private Road Construction Certificate

(3) *Easement-hold interest by the adjacent lot owners:* Under this provision, ownership of the adjacent lots may extend to the center line of new roads. In order for a final plat to be approved having ownership of the road right-of-way held by the adjacent lot owners, the following items are required:

- a. All minimum lot sizes shall be met exclusive of any road right-of-way.
- b. An area table shall be placed on the final plat that states for each lot the area within road right-of-way, the area outside of road right-of-way, and the total area.
- c. Private road maintenance review executed on the final plat.
- d. Private road maintenance acknowledgement executed on the final plat.
- e. Acceptable private road maintenance agreement, either previously recorded or to be recorded with final plat.
- f. Satisfactory inspections per Section 82-202 (B). by the Gilmer County Road Department.
- g. Private Road Construction Certificate

(Ord. of 3-27-2003(5), § 3.514; Res. No. 06-47, 3-8-2006)

**Sec. 82-187. Drainage.**

(a) All drainage pipe and drainage structures shall be designed utilizing sound hydrology standards and requirements set forth in chapter 70, article II, by a registered professional qualified to design such systems and who is licensed in the state. Water shall be diverted under roadways by the use of pipe with a minimum diameter of 15 inches. Minimum material type is 14 gauge corrugated metal pipe. Reinforced concrete pipe is acceptable. High Density Polyethylene (HDPE) and Polyvinyl Chloride (PVC) culverts are acceptable so long as the selected product and installation thereof follow the Georgia Department of Transportation Standard No. 1030P, ~~as revised 3/15/2006 and QPL-51~~. It shall be the responsibility of the developer and/or contractor to coordinate the installation and inspection of any HDPE or PVC pipes to the satisfaction of the Gilmer County Department of Public Works prior to covering said pipes. Any other types of plastic culverts are not acceptable. Any culvert in a road that is to be dedicated to Gilmer County which will have more than eight foot of cover must be reinforced concrete (Ord. of 3-27-2003(5), § 3.515; Res. No. 06-47, 3-8-2006; Res. No. 06-124, 6-27-2006)

**Sec. 82-190. Street classification.**

Road Class Chart

(c) New residential subdivision roads that are to be privately maintained where the minimum lot size is less than 3.0 acres (not including road r/w). Paving specifications are five inch base topped with two inch asphalt. Class C roads must be privately maintained. Maximum road slope may exceed 18 percent to a maximum of 20 percent for no further than 400 feet per quarter mile. ~~If any portion of the road exceeds 18 percent, the entire road shall be paved.~~

(d) New residential subdivision roads that are to be privately maintained where the minimum lot size is 3.0 acres (not including road r/w) or within agricultural zoned greenspace developments. Maximum road slope may exceed 18.0% percent to a maximum of 20 percent for no further than 400 feet per quarter mile. ~~If any portion of the road exceeds 18 percent, the entire road shall be paved~~ For all areas greater than 18.0%, paving shall be required to extend from 400' before the grade reaches 18.0% and extend through the area that is greater than 18.0% to a point that is 400' beyond the extent of the road that is greater than 18.0%

(e) New residential subdivision roads that are to be privately maintained where the minimum lot size is 5.0 acres (not including road r/w), and that serve no more than ten lots. Maximum road slope may exceed 18.0% percent to a maximum of 20 percent for no further than 400 feet per quarter mile. For all areas greater than 18.0%, paving shall be required to extend from 400' before the grade reaches 18.0% and extend through the area that is greater than 18.0% to a point that is 400' beyond the extent of the road that is greater than 18.0%

(Ord. of 3-27-2003(5), § 3.518; Ord. of 5-13-2004(4), § 3.518; Res. No. 06-47, 3-8-2006; Res. No. 06-190, §§ m, n, 11-9-2006)

**Sec. 82-202. Inspections.**

~~The developer shall coordinate his/her road construction with the county road department and the land development officer. The base grading, drainage and utilities shall be approved by the county road department and land development officer before any base or surface shall be applied to the street.~~

(A) Prior to beginning construction on a road or street that is proposed to be dedicated to Gilmer County upon completion, the Board of Commissioners shall designate a procedure for construction inspections of the road. The procedure may include the engagement of a geotechnical engineering firm, the fees for which would be paid for by the developer, the assignment of qualified county personnel and an estimated cost for such personnel which would be paid for by the developer, or a combination of both. The Board of Commissioners shall also designate a contact person on behalf of the County to coordinate all inspections and correspondence.

(B) The following standards of inspection shall be applicable to roads or streets that are to be privately maintained. Satisfactory review of photographs of each section of the road as it was constructed, especially topsoil removal, culvert placement, and building of fill slopes, along with detailed weekly construction reports (may use the same as required of the primary or secondary permittee under NPDES requirements) and site visits during construction.

(Ord. of 3-27-2003(5), § 3.530; Ord. of 5-13-2004(4), § 3.530; Res. No. 06-47, 3-8-2006)

## ARTICLE II. LITTER AND WASTE CONTROL

### Sec. 46-32. Definitions.

(a) Definitions for this article are as set forth in O.C.G.A. §§ 16-7-42, 16-7-51, 12-8-22, 12-8-62 and 12-8-92 and also includes (b)—O.C.G.A. § 16-7-51(6) is amended to add "abandoned or substantially destroyed mobile homes."  
(Ord. of 2-27-2003(1), § II)

### Sec. 46-33. Litter and waste control.

Litter and waste control on public and private property shall be enforced pursuant to O.C.G.A. §§ 16-7-40 et seq. and 16-7-50 et seq. 16-7-43 through 16-7-48 and 16-7-52 through 16-7-55.  
(Ord. of 2-27-2003(1), § III)

### Sec. 46-34. Enforcement.

Pursuant to O.C.G.A. § 16-7-45- 16-7-43 (d) the land development officer and/or the director of solid waste is hereby designated to enforce this article. The Chairman of the Board of Commissioners shall appoint those county employees who are designated to enforce this article.  
(Ord. of 2-27-2003(1), § IV)

### Sec. 46-35. Penalties.

O.C.G.A §§ 16-7-43~~(b)~~ and 16-7-53 sets forth the penalties for violation of this article.  
(Ord. of 2-27-2003(1), § V)